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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,285	09/26/2006	Bjoern Haase	3795	6104
278	7590	06/30/2009		
MICHAEL J. STRIKER 103 EAST NECK ROAD HUNTINGTON, NY 11743			EXAMINER WHITTINGTON, KENNETH	
			ART UNIT	PAPER NUMBER
			2858	
			MAIL DATE	DELIVERY MODE
			06/30/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/594,285

Applicant(s)

HAASE, BJOERN

Examiner

KENNETH J. WHITTINGTON

Art Unit

2858

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kenneth J Whittington/
Primary Examiner, Art Unit 2858

Continuation of 11, does NOT place the application in condition for allowance because: The arguments asserted by Applicant are not persuasive and thus the rejections remain.

The first argument asserted by Applicants is that the number of turns of an individual coil in Harvey (US7202768) cannot be varied. Initially, it is noted that this is not required in the claims. Rather, the claims recite that the number of turns of "the at least one receiver coil" is variable. There is no explicit requirement that each coil be individually varied. A reasonable interpretation of this phrase is that the number of turns of the group of the coils making up the at least one coil is varied.

Harvey discloses three receive coils in its receive turn system (See FIGS. 3-7, note coils 32A-32C). Each of these coils loops are connected to ground or not to allow eddy currents to flow therein or not. Thus, if the coil is switched to allow eddy currents to flow therein, it becomes part of the receive turn system and/or "the at least one receiver coil" to affect the transmitter coil 14. If the coil is not so switched, it does not affect the transmit coil. This is similar to the arrangement of Applicant's invention, wherein several switches either activate loops of a coil or deactivate loops of a coil to vary the effective number of turns of the coil. The number of turns is always there, some are connected or not.

Applicant next argues that there is no connection between the transmit coil 14 and the coils 22 or 32. However, this ignores FIGS. 4 and 5 of Harvey wherein each of the coils of the system of Harvey is magnetically coupled. This is the entire intention of Harvey as outlined in the disclosure thereof wherein the receive turn system is to affect the inductance of the transmitter coil.

Applicant additionally asserts that Harvey is not a device for locating metallic objects. However, such a limitation only appears in the preamble of the claims and is not given any breadth within the body of the claims and thus is not limiting. Thus, arguments therefor are not persuasive. Furthermore, the feature "A device for locating metallic objects" appear to merely be an intended use thereof the device. Harvey meets the positively recited features of the claims and the rejections stand.

Finally, Applicant asserts that Kooy (US4775766) does not disclose that "the number of turns of the receiving coil of the device of the present invention is therefor varied". Again, it is noted that this feature is not claimed. Rather, it is the "at least one receive coil" that is varied. Nonetheless, as specifically noted in FIG. 4 of Kooy, the switch 2' varies the number of turns of the at least one receive coil system. Accordingly, this rejection stands.

Finally, it is noted that Applicant has not addressed the Nelson (US7176691) and thus that rejection stands as well.